

### REMARKS

This responds to the Office Action dated March 27, 2008.

Claim 1 is amended. Claims 1-10 and 57-66 remain pending in this application.

#### §103 Rejection of the Claims Using Levine and Morgan

Claims 1-10, 61, 65, and 66 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine (U.S. Patent No. 6,477,417, herein "Levine") in view of Morgan (U.S. Patent No. 5,024,221, herein "Morgan").

#### *Claim 1*

Claim 1 has been amended to more clearly describe the recited subject matter. Support for the amendment is found, for example, on page 10, lines 13-25 of the present application.

Applicant respectfully traverses the rejection and submits that the Office Action does not set forth a proper *prima facie* case of obviousness because Levine and Morgan, individually or in combination with each other and the Examiner's reasoning, do not provide the claimed subject matter. For example, Applicant is unable to find in Levine and Morgan, individually or in combination, among other things, a sensing circuit programmed to be a circuit including a filter having a first set of cutoff frequencies suitable for far-field electrogram sensing while a pacing circuit is inactive and programmed to be a circuit including a filter having a second set of cutoff frequencies suitable for intracardiac electrogram sensing while the pacing circuit is capable of producing pacing pulses, as recited in claim 1. Applicant is unable to find in the Office Action a reason that remedies this deficiency of the cited references.

Applicant also respectfully submits that the Examiner has not articulated a proper reason to support the combination of Levine and Morgan. The Office Action asserts, in paragraph 3, that "Levine discloses ... a processor that is upgradeable from a cardiac monitor controller to a cardiac pacemaker controller wherein the sensing circuit is adapted to be programmed from a far-field sensing configuration to an intracardiac electrogram sensing configuration (col. 2, line 2)". The cited portions of Levine relate to a pacemaker that "can be programmed ... for either bipolar or unipolar operation with respect to either sensing or pacing operations". Thus, it appears that the Examiner reads Levin's bipolar and unipolar sensing configuration to be the

intracardiac and far-field sensing recited in claim 1. However, the Office Action does not provide a reason why one of ordinary skill in the art would use different cutoff frequencies for Levine's bipolar and unipolar sensing configurations.

The cited portions of Morgan (abstract) relate to band-pass characteristics "varied to improve amplifier recovery time". Applicant is unable to find in Morgan varying the band-pass characteristics for different sensing configurations. Therefore, the addition of Morgan does not remedy the deficiency of Levine as discussed above.

The Office Action further asserts, in paragraph 3, that "it is well known in the art to provide the different claimed cutoff frequencies for near-field and far-field sensing to provide the predictable result of acquiring the desired heart signal, while excluding noise based on the electrode configuration." However, this assertion does not remedy the deficiency of Levine because it still fails to provide a reason why one of ordinary skill in the art would use different cutoff frequencies for Levine's bipolar and unipolar sensing configurations, read by the Examiner to be the claimed intracardiac and far-field sensing configurations as discussed above.

Additionally, the Office Action states, in paragraph 3, that the "Examiner is interpreting this as an "upgrade" because it provides improved performance inasmuch as sensing and stimulating a local area of the heart." Claim 1 recites a "processor including a cardiac monitor controller that is upgradeable to a pacemaker controller". It is believed that one of ordinary skill in the art would not understand the alleged "improved performance" as a difference between a cardiac monitor controller and a pacemaker controller.

Applicant respectfully requests reconsideration and allowance of claim 1.

*Claims 2-10, 61, 65, and 66*

Applicant respectfully traverses the rejection. Claims 2-10, 61, 65, and 66 are dependent on claim 1, which is believed to be patentable for at least the reasons set forth above. Therefore, the discussion above for claim 1 is incorporated herein to support the patentability of 2-10, 61, 65, and 66.

Applicant respectfully requests reconsideration and allowance of claims 2-10, 61, 65, and 66.

*§103 Rejection of the Claims Using Levine and Morgan*

Claims 57-60 and 62-64 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine.

Applicant respectfully traverses the rejection and submits that the rejection is improper. Claims 57-60 and 62-64 are dependent on claim 1, which was rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine in view of Morgan. The rejection is believed to be improper for relying on Levine alone, without Morgan.

Additionally, because claim 1 is believed to be patentable for at least the reasons set forth above, the discussion above for claim 1 is incorporated herein to support the patentability of 57-60 and 62-64.

Applicant respectfully requests reconsideration and allowance of claims 57-60 and 62-64.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6965 to facilitate prosecution of this application.

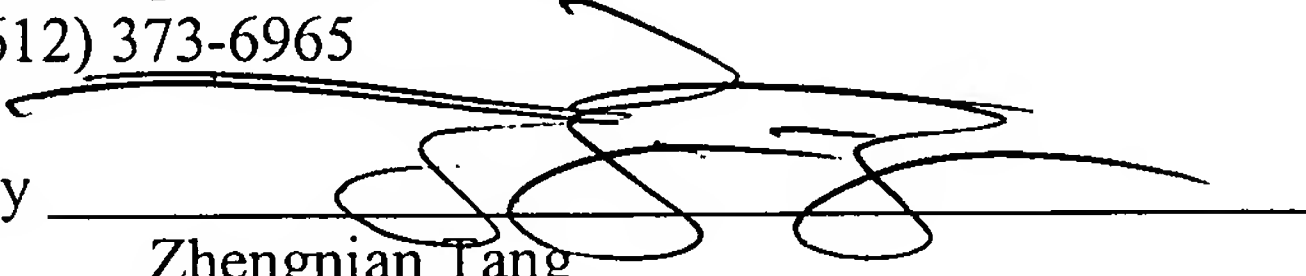
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date June 27, 2008

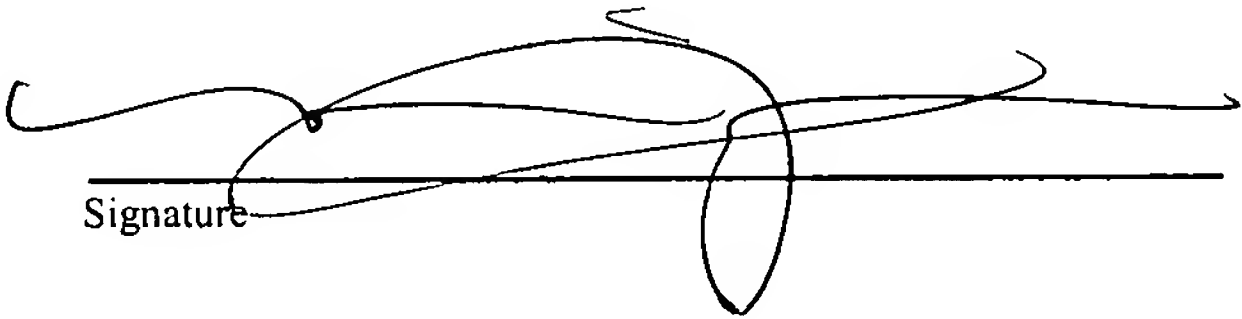
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 27<sup>th</sup> day of June, 2008.

Nicole Jack

Name

  
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